AB

Decision No. 43126

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DUARTE MUTUAL WATER COMPANY, a corporation, Complainant vs. SOUTHERN CALIFORNIA WATER COMPANY, a corporation, Defendant.	CASE NO. 4997 AMENDED

Mr. C. F. Culver and Mr. P. T. Tscharner, for complainant; O'Melveny & Myers, by L. M. Wright, for defendant.

O P I N I O N

Duarte Mutual Water Company, a corporation, asks the Commission to issue an order restraining Southern California Water Company, a corporation, from serving customers in Tract No. 15498, Los Angeles County, with water unless it secures a certificate of public convenience and necessity for such service.

A public hearing was held in Los Angeles before Examiner Warner on April 29, 1949.

Complainant alleges that defendant has installed mains on the westerly side of Tract No. 15498,[1] along California Street, and on the south side of said tract, along Shrode Street, having extended its main some 2,616 feet easterly from its presently certificated area, and that defendant proposes to serve some 122 lots in said tract, which is located southerly of the limits of the City of Monrovia and easterly of the limits of the City of Arcadia and in the vicinity of

[1] Complainant erred in its original filing by referring to Tract No. 15434 instead of Tract No. 15498. Correction was made by the subsequent filing of an amendment.

the present Walnut Grove System of defendant. Complainant also alleges that it has, for some time, been serving domestic and irrigation customers of its own, in the territory, and avers that it is ready, willing, and able to render service to the tract at the present time. Finally, it alleges that defendant would be operating without certificated authority if it were to commence service as indicated.

The evidence shows that complainant has served in this general area since 1861, first as the Beardslee Water Company and the Duarte Mutual Irrigation Canal, and later as the present Duarte Mutual Water Company, a corporation, formed under the laws of the State of California; that, initially, irrigation service was rendered but, that later, as domestic needs arose, domestic service was rendered, also; that irrigation and domestic facilities are not interconnected or reliant each on the other; that plaintiff has served domestic water to land in this territory excluded by the subdivision by jogs, but not to the subdivision (Tract No. 15498) itself; that there is ample water supply available to complainant for the servicing of the prospective 122 customers in Tract No. 15498; that throughout complainant's entire system, about 1,540 customers are being served at the present time; that complainant's rates comprise a minimum rate of $1.50 per meter per month, including the first 800 cubic feet of water, and seven cents per 100 cubic feet for the next 2,000 cubic feet, and all over 2,800 cubic feet at five cents; that, in addition to monthly minimum and quantity rates, annual assessments are made against stockholders to retire indebtedness; that in order to become eligible for service, a prospective water customer is required to purchase and own at least two shares of stock in the mutual water company, currently costing approximately $40 per share; that the shares are not appurtenant to the land and may be transferred from person to

person; that it is possible that a prospective water customer might not be able to obtain the necessary share of stock although this is not probable, since the evidence shows that the subdivider does possess 240 shares which could be sold to purchasers of lots, and that the mutual water company may have some shares for issuance, as necessary; that, however, the subdivider owns other property within the general vicinity to which any or all of the 240 shares might be transferred, if he so elected, thereby leaving a purchaser of a lot in Tract No. 15498 in an ineligible position to secure water service if stock were not obtainable from other shareholders or from the mutual water company.

The evidence shows that, since 1935, Southern California Water Company, defendant, has operated as a certificated public utility in its Walnut Grove System, contiguous to which it serves Tracts Nos. 14247 and 12176, at the extreme southeasterly corner of the latter of which, i.e., at the corner of Brisbane Street and California Avenue, connection was made, in December of 1948, and January of 1949, by a six-inch main which was extended northeasterly along California Avenue, to Tract No. 15498; that, from the corner of Shrode Avenue and California Avenue, an eight-inch main was extended northerly along California Avenue, and a six-inch main was extended easterly along Shrode Avenue preparatory to serving the 122 lots of Tract No. 15498; that the rates of defendant are $1.25 minimum, including the first 1,000 cubic feet per meter per month, with the next 2,000 cubic feet at seven cents per 100 cubic feet and all over 3,000 cubic feet at five cents; that defendant also has ample water supply available for the serving of the tract; that there is no stock-ownership requirement by defendant; that defendant does not and cannot levy assessments against customers; that defendant is a regulated public utility with its rates and service supervised by this Commission as a corollary thereto.

The evidence further shows that late in 1948 the subdivider obtained an estimate from complainant of the cost of installing a distribution system; that this estimate indicated that the system cost would have been $12,100 plus the cost of installing 122 meters at $75 each, which would have been $9,150 or a total cost to the subdivider of $21,250; that meters would have remained the property of complainant; that there was no refunding agreement for the return, by complainant, of distribution system or meter installation charges; that the subdivider, in December, 1948, then obtained an estimate from defendant of the cost of furnishing water service to the tract; that this estimate indicated a total cost of $16,000 for the distribution system, with no charge for meters, and a refunding agreement on the usual basis of 35% of the total bills in the tract, payable twice a year over a period of ten years, or sooner, at no interest. The final contract was $15,707.

In view of the evidence, hereinbefore outlined, we conclude and find as follows:

(1) that Tract No. 15498 is not contiguous to defendant's certificated area; and that it is necessary that defendant obtain a certificate of public convenience and necessity to serve this tract.

(2) that the public interest would best be served by defendant applying for a certificate and allowing defendant to furnish water service to Tract No. 15498 inasmuch as defendant's rates are lower, there are no assessments liable, there are no stock-ownership requirements, initial construction costs are not only lower but refundable, and that prospective customers would enjoy the protection of their service and their rates which follows public utility regulation by this Commission.

Defendant will be expected to file an application within thirty days for a certificate. Pending receipt of said application and decision therein, no restraining order will be issued.

Corr.
C-4997
DS

O R D E R

Complaint as entitled above having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted, and the Commission having been fully advised in the premises, and basing its order upon the findings of fact herein and the evidence of record,

IT IS HEREBY ORDERED that the complaint herein be and it is dismissed subject to reopening in the event the defendant does not seek and obtain a certificate to serve Tract 15498 in the County of Los Angeles.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 12th day of July, 1949.

Commissioners